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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,085	08/02/2000	James L. Kroening	97-0506D4	8976
24333	7590	03/27/2003	EXAMINER	
GATEWAY, INC. ATTN: SCOTT CHARLES RICHARDSON 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			GROSS, KENNETH A	
		ART UNIT	PAPER NUMBER	
		2122		
DATE MAILED: 03/27/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	KROENING ET AL.
09/631,085	
Examiner Kenneth A Gross	Art Unit 2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 1-37 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-37 is/are rejected.
- 7) Claim(s) 10 and 28 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Disposition of Claims**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)                  4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                  5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.                  6) Other:

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 10 and 28 are objected to because of the following informalities: Claims 10 and 28 recite the limitation "program of instruction". This should be "program of instructions". Claim 28 recites the limitation "making the information handling system operation". This should be "making the information handling system operational". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 10, 19, and 28 recite the limitation "the removable medium". There is insufficient antecedent basis for this limitation in the claim. This is interpreted to mean the restore medium. Claims 8, 17, 26, and 36 recite the limitation "the user". There is insufficient antecedent basis for this limitation in the claim. Claims 1-7, 9, 11-16, 18, 20-25, 27, 29-35, and 37 are rejected for being dependent on a rejected parent claim.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goshey et al. (U.S. Patent Number 6,205,527) in view of Fletcher et al. (U.S. Patent Number 6,009,274).

In regard to Claim 1, Goshey teaches: (a) accessing the restore medium by the information handling system (Figure 2, item 112); (b) loading a first set of software components capable of supplying data suitable for making the information handing system operational (Figure 2, item 120). Goshey does not teach initiating a connection with a network storage medium over a network, the connection initiated by instructions included on the restore medium and receiving a second set of software components suitable for updating the first set of software components. Fletcher, however, does teach a connection to a network storage medium over a network (Column 14, lines 11-13) and receiving a second set of software components suitable for updating the first set of software components (Column 14, lines 40-44). Fletcher does not explicitly teach a set of instructions for connection with a network, however, since a connection is made, and it is done on a computer, there must exist a set of instructions that initiate the connection to the network storage medium. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to access a restore medium and load a set of software capable of returning a computer system to an operational state, as taught by Goshey, and furthermore, to access a network storage medium and receive a second set of software components suitable for updating the first set of software components, as taught by Fletcher, since this would allow a system not only to fully restore itself to an operational state, but to be

updated with the newest possible drivers and updates available. Claims 10 and 19 correspond to Claim 1 and are rejected for the same reasons as Claim 1.

In regard to Claim 2, Fletcher teaches that software is sent over a network, and hence a software application (Column 5, lines 53-61). Claims 11 and 20 correspond to Claim 2 and are rejected for the same reasons as Claim 2.

In regard to Claim 3, Goshey teaches that operating system files are saved and then loaded when it is accessed by the information handling system Column 2, lines 46-65). Claims 12 and 21 correspond to Claim 3 and are rejected for the same reasons as Claim 3.

In regard to Claim 4, Fletcher teaches identifying desired software components needed for the information handling system from the network storage medium (Column 11, lines 48-67 and Figure 5, item 306). Claims 13 and 22 correspond to Claim 4 and are rejected for the same reasons as Claim 4.

In regard to Claim 5, Fletcher shows in Figure 5, item 306 that each software component in the request table is assigned a unique identifier 1 though M, where M is the number of software components available on the server. Claims 14 and 23 correspond to Claim 5 and are rejected for the same reasons as Claim 5.

In regard to Claim 6, Fletcher teaches identifying desired software components needed for the information handling system from the network storage medium (Column 11, lines 48-67 and Figure 5, item 306). Since these software components are software updates, and since the updates are only transmitted when a newer version is available on the server (Column 14, lines 14-28), the second set of software components might contain updated versions of the first set of

software components, but never the same software components already loaded on the system.

Claims 15 and 24 correspond to Claim 6 and are rejected for the same reasons as Claim 6.

In regard to Claim 7, Fletcher teaches a database list of software components available for installation (Figure 5, item 306). Claims 16 and 25 correspond to Claim 7 and are rejected for the same reasons as Claim 7.

In regard to Claim 8, it is obvious that a user supplies the network storage medium with a list of software components, since a network administrator or the like will need to access beforehand the network storage medium in order to copy to the network storage medium a list of software components available to the information handling system. Claims 17 and 26 correspond to Claim 8 and are rejected for the same reasons as Claim 8.

In regard to Claim 9, it is obvious that a list of software components is obtained from the manufacturer of the information handling system. Since the network medium could be used for build-to-order information handling systems in a manufacturing environment, and since it was stated above that it was obvious for the network storage medium to obtain the list of software components from a user, it is obvious that this user is a manufacturer of the information handling system, since this would allow the manufacturer to specify exactly what components to include in the information handling system. Claims 18 and 27 correspond to Claim 9 and are rejected for the same reasons as Claim 9.

In regard to Claim 28, Goshey teaches: (1) a computer readable medium suitable for being read by an information handing system including a first set of software components capable of supplying data suitable for making the information handing system operational (Column 2, lines 50-53). Goshey does not teach a program of instructions for initiating a

connection with a network storage device, wherein the network storage device includes a second set of software components suitable for updating the first set of software components. Fletcher, however, does teach a connection to a network storage medium over a network (Column 14, lines 11-13) and receiving a second set of software components suitable for updating the first set of software components (Column 14, lines 40-44). Fletcher does not explicitly teach a set of instructions for connection with a network, however, since a connection is made, and it is done on a computer, there must exist a set of instructions that initiate the connection to the network storage medium, since this is the obvious way for a computer to carry out method steps.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to develop a restore medium with a computer readable medium suitable for being read by an information handing system including a first set of software components capable of supplying data suitable for making the information handing system operational as taught by Goshey, and program of instructions for initiating a connection with a network storage device, wherein the network storage device includes a second set of software components suitable for updating the first set of software components, as taught by Fletcher, since this would allow a system not only to fully restore itself to an operational state, but to be updated with the newest possible drivers and updates available.

In regard to Claim 29, Fletcher teaches that an agent update request connects to the server, and sends the software components, which updates the agent (Column 5, lines 53-61).

Claims 30-37 correspond directly with Claims 2-9, respectively, and are rejected for the same reasons as Claims 2-9, respectively.

***Conclusion***

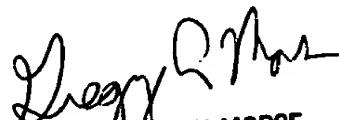
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A Gross whose telephone number is (703) 305-0542. The examiner can normally be reached on Mon-Fri 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A Morse can be reached on (703) 308-4789. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

KAG  
March 24, 2003

  
GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
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